

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION

CARL MALONE

PLAINTIFF

V.

CIVIL ACTION NO. 3:22-cv-035-NBB-JMV

COOKE INSURANCE CENTER, INC., ET AL.

DEFENDANTS

**ORDER DENYING MOTION TO STRIKE**

This cause comes before the court upon the *pro se* plaintiff's motion to strike answer, affirmative defenses, and counterclaims of defendants. Upon due consideration, the court finds that the motion is not well taken and should be denied.

Under Fed. R. Civ. P. 12(f), "[t]he court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Motions to strike are, however, "disfavored, and when the contents of a pleading are legally sufficient, but improper for some other reason, a motion to strike should be granted only when the moving party shows that the inclusion of the disputed claims or defenses would cause it prejudice." *Chase Medical, LP v. CHF Technologies, Inc.*, No. Civ. A. 304CV2570-M, 2005 WL1638976, at \*1 (N.D. Tex. July 11, 2005). "If the moving party does not show prejudice, the court should 'defer action on the motion and leave the sufficiency of the allegations for determination on the merits.'" *Id.* (citing *Augustus v. Bd. of Pub. Instruction of Escambia Cnty, Fla.*, 306 F.2d 862 (5th Cir. 1962))

Here, the *pro se* litigant has alleged neither prejudice nor any persuasive grounds as to why the contents of the defendants' pleadings are improper. The court finds that the appropriate course of action at this time is to allow the answer and affirmative defenses to stand and leave the sufficiency of the allegations in the counter-claims – which include, inter alia, charges of

malicious prosecution, abuse of process, and defamation – for a later determination on the merits. *Id.*

Accordingly, the court finds that the plaintiff’s motion to strike is not well taken and that it should be, and the same is hereby, **DENIED**.

This 23rd day of March, 2023.

/s/ Neal Biggers

NEAL B. BIGGERS, JR.

UNITED STATES DISTRICT JUDGE